



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/805,038 | 03/19/2004 | Eugene August Fusz | 10209-00007CIP | 7961 |
| 76656 | 7590 | 10/28/2010 | | |
| Patent Docket Department Armstrong Teasdale LLP 7700 Forsyth Boulevard Suite 1800 St. Louis, MO 63105 | | | | |
| EXAMINER | | | | |
| BOYCE, ANDRE D | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3623 | | | | |
| NOTIFICATION DATE | | DELIVERY MODE | | |
| 10/28/2010 | | ELECTRONIC | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USpatents@armstrongteasdale.com

Office Action Summary

Application No.

10/805,038

Applicant(s)

FUSZ, EUGENE AUGUST

Examiner

Andre Boyce

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-38 is/are pending in the application.
- 4a) Of the above claim(s) 1-4, 6-11 and 34-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/6/10 has been entered.
2. Claims 12 and 25 have been amended. Claims 1-4 and 6-38 are pending, while claims 1-4, 6-11 and 34-38 are withdrawn.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claim 12-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldhaber et al (USPN 5,855,008), in view of Kepecs (USPN 6,009,411).

As per claim 12, Goldhaber et al disclose a method for generating a database of personalized anonymous consumer profiles (i.e., private profiles of consumer

interests, column 6, lines 40-49), said method comprising: (a) providing a questionnaire to a consumer, the questionnaire accessible utilizing a computer communicatively coupled to a server that includes a data base for storing the questionnaire (i.e., consumer computer 104 connected to server 106, figure 1), the questionnaire including only questions having a nature such that answers to the questions include only non-identifying information concerning the consumer (i.e., profile questionnaire requesting certain demographic related information, wherein the profile is separate from the contact information, column 13, lines 32-40); (b) accepting answers to the questionnaire at the server from the computer, the answers entered via a user interface displayed by the computer, the user interface configured such that only answers containing non-identifying information may be entered into the user interface (i.e., consumer asked to provide interest profile information, column 13, lines 30-31); (c) configuring the received answers as a consumer profile of one or more files stored within one or more consumer profile databases, stored in the server database (i.e., database 120, figure 7), (d) providing advertisements to the consumer, via the computer user interface, based on data within the consumer profile database (i.e., use of consumer interest profile to target advertisements, column 14, lines 22-25); (e) receiving feedback on the advertisements, at the server (i.e., feedback, column 18, lines 57-59) and ; (f) updating the consumer profile database based on the feedback (i.e., feedback used to fine-tune the consumer's interest profile, column 18, lines 59-61).

Goldhaber et al does not explicitly disclose all of the stored files and the one or more consumer profile databases including only non-identifying information concerning the consumer. Kepecs discloses a discount administration process (DAP) computer 11 that maintains a Key database of consumer accounts (column 5, lines 54-57), wherein the lowest level of identification is simply the KEY with no other identification data, thus maintaining complete consumer anonymity (column 6, lines 52-54). Both Goldhaber and Kepecs are concerned with an effective method of marketing products to potential consumers, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include all of the stored files and the one or more consumer profile databases including only non-identifying information concerning the consumer in Goldhaber et al, as seen in Kepecs, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 13, Goldhaber et al disclose providing updated questions, within the questionnaire, to the consumer based on one or more of the received answers and the received feedback (i.e., the ad display may ask the consumer questions, column 16, lines 16-23), the updated questions also including only questions having a nature such that answers to the updated questions include only non-identifying information concerning the consumer (i.e., profile questionnaire requesting certain demographic related information, wherein the profile is separate from the contact information,

column 13, lines 32-40); receiving answers related to the updated questions (i.e., successful completion of the process); and updating the consumer profile based on the answers received relating to the updated questions (i.e., feedback used to fine-tune the consumer's interest profile, column 18, lines 59-61 and figure 13).

As per claim 14, Goldhaber et al disclose compensating the consumer for at least one of the received answers to the questionnaire (i.e., ad display asks the consumer questions, column 16, lines 16-23), the received answers to the updated questions, and the feedback received on the advertisements.

As per claim 15, Goldhaber et al disclose instructing the consumer to access a randomly generated website to download the compensation (i.e., consumer clicks her mouse onto the CyberCoin icon, column 11, lines 11-19).

As per claim 16, Goldhaber et al disclose answering questions regarding appropriateness (i.e., use of consumer interest profile to target advertisements, column 14, lines 22-25, wherein the consumer indicates whether they liked or disliked the ad, column 18, lines 57-61) and timing of the advertisements.

As per claim 17, Goldhaber et al disclose repeating the steps of providing advertisements to the consumer, based on the consumer profile database and updating the consumer profile database, based on the feedback (i.e., consumer selects a plurality of ads, column 18, lines 49-67).

As per claim 18, Goldhaber et al disclose accessing the database to provide updated answers to previously answered questions (i.e., update your profile at any time, column 13, lines 45-51).

As per claim 19, Goldhaber et al disclose selecting a purchase option for an item within an advertisement (i.e., consumer may place an order for goods in response to interaction with an ad, column 18, lines 54-57); and updating the profile to include that the item has been purchased (i.e., feedback used to fine-tune the consumer's interest profile, column 18, lines 59-61 and figure 13).

As per claim 20, Goldhaber et al disclose the anonymous profiles are maintained by an intermediary, and wherein advertisers pay the intermediary to provide advertisements to the consumers based on the anonymous consumer profiles (i.e., attention broker 106, column 14, lines 30-34, wherein a financial clearinghouse may act as the attention broker, column 10, lines 1-8).

As per claim 21, Goldhaber et al disclose the intermediary distributes a portion of the pay to the consumers who provide feedback on the advertisements (i.e., consumer computer interacts with financial clearinghouse, column 10, lines 1-8).

As per claim 22, Goldhaber et al does not explicitly disclose providing an inability to accept identifying information. Kepecs discloses a method of distributing and redeeming promotions wherein no consumer identification is maintained (see column 2, lines 50-52). The lowest level of identification in Kepecs is simply a unique customer key with no other identification data (see column 6, lines 51-53), wherein the consumer is compensated via a discount or credit (see column 5, lines 41-45), identified via the key (see column 5, lines 55-57). Both Goldhaber and Kepecs are concerned with an effective method of marketing products to potential consumers, therefore it would have been obvious to one having ordinary skill in the art at the

time the invention was made to include maintaining the anonymity of the individual through an inability to accept contact information in the profile in Goldhaber et al, as seen in Kepecs, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 23, Goldhaber et al disclose presenting the questionnaire to the user in a non-text entry format including one or more of true/false selections, pull down menus (i.e., selection of female/male, column 13, lines 60-62), and multiple choice selections.

As per claim 24, Goldhaber et al disclose logging into a computer storing the database utilizing at least one of an anonymizing program, a random username (i.e., handle, column 13, lines 15-16), and answering a series of previously answered questions to uniquely identify a user to the computer.

Claims 25-32 are rejected based upon the same rationale as the rejections of claims 12-15, 17, 23, 24 and 24, respectively, since they are the system claims corresponding to the method claims.

As per claim 33, Goldhaber et al disclose the non-identifying questions are personal in nature (i.e., profile questionnaire requesting certain demographic related information, column 13, lines 32-35).

Response to Arguments

5. In the Remarks, Applicant argues Goldhaber et al do not describe or suggest a method for generating a database of personalized anonymous consumer profiles including configuring the received answers as a consumer profile of one or more files stored within one or more consumer profile databases, stored in the server database, all of the stored files and the one or more consumer profile databases including only non-identifying information concerning the consumer.

While the Examiner disagrees with Applicant's analysis of Goldhaber et al, including Applicant's bald assertions that "[w]hile Goldhaber et al. attempt to maintain anonymity by separating the contact information from the interest profile in the described database, as is illustrated in Figure 7 and described at Column 13, lines 38-39, it is well known that such "data separation" is never absolute and can be compromised. At Column 13, lines 40-60, Goldhaber et al. describe a filtering function which purports to prevent the contact information from being accessed, but it is well known that such systems can be overcome" (Applicant's response filed 10/6/10, pages 11-12), the Examiner submits Kepecs indeed discloses all of the stored files and the one or more consumer profile databases including only non-identifying information concerning the consumer, as discussed in the above rejection.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571)272-6726. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andre Boyce/
Primary Examiner, Art Unit 3623
October 24, 2010